

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL

WEDNESDAY, JANUARY 7, 2004

MEMBERS PRESENT:

Lauren Kingman, Chairman
Virginia Child
Mary Ann Hoffman
William Jeffway

MEMBERS ABSENT:

Jeffrey Anagnos

ALSO PRESENT:

Pauline Coombe-Clark

Chairman Kingman opened the public hearing at 7:15 p.m. for David Borenstein for a five lot subdivision known as the Pasture Rock Subdivision on Woody Row Road, grid no. 03-6572-00-334621-00. In attendance were David Borenstein, Applicant, John Lyons, Attorney, and Rodney Morrison, Engineer. Mr. Lyons brought everyone up to date. They have submitted a revised environmental assessment form and had a meeting with Ted Fink, Consultant, Chairman Kingman, and Mr. Lyons. As a result, Mr. Fink asked for a series of revisions to the map and the EAF. A comment letter from Mr. Fink was submitted at tonight's meeting dated January 6, 2004. Mr. Lyons feels they can supply satisfactory answers by item to Mr. Fink's comment letter. The only outstanding item to resolve is the matter of paying recreation fees or donating land in lieu of those fees. That issue will be re-addressed. Mr. Morrison gave an overview of the project. The property is 112 plus acres. The proposed project is, at this stage, to create a five lot subdivision with four principal lots along the front of Woody Row Road ranging from approximately 5 to 7 acres in five acre zoning. There is a remaining lot in the rear of 86 acres which, at some point in the future, they would like to continue to subdivide with a configuration unknown at this time. The EAF has been revised to reflect there is future development planned, indicating the current phase and future phase. Lots 3, 4, and 5 have proposed access off of a common driveway. The intention is for the location of the common driveway to provide the access to the rear lot development, becoming a rural lane. Sight distance has been verified from that point. A letter has been received from the Town of Milan Highway Superintendent approving the entrance. They are not required to go before the Board of Health prior to approval due to the size of the lots. There was a wetland delineation done on the property. The DEC has visited the site and walked the property. There are areas off of the property that are DEC wetlands and the proper buffers are in place. Members of the public came up and viewed the map and talked with the engineer. Van Talmage, adjacent property owner, had some concerns about the subdivision, but did say he had no objection to this proposal. Included in his comments were he likes the large lot sizes, the longer range plan involving the rural lane, and that the homes are harmonious with the land around them and not highly visible from the road. Mr. Talmage went on to say on the east side of the property, there is a prominent ridge which is one of the high points in this area and is concerned that the ridgeline is not disturbed. It appears that the driveway will be on the top of the ridge and will

not be seen. He stated concerns that the two houses proposed for up there will not ascend too much above the top of the ridge. As far as recreation property, ideal would be some kind of trail system around this property that would benefit the community. Mr. Lyons said their attorney had liability concerns about that. Also, as a general comment, Mr. Talmage said he would like to see on all new houses a solar back up energy system to run the lights, etc. when the electricity goes out. Mr. Talmage also commented that where the new driveway is, they had to blast through rock and go over a stream and make several bends in the road to get access to the ridge. Right next door is an existing driveway. If they could have connected to that driveway, it would have saved some money. Mr. Borenstein said Planning Boards tend to not want to mix property like that. Mr. Talmage said his last comment is as far as the recreation fee or land in lieu of, he would like the Planning Board to consider the option of land and not the rec fees. Mr. Vavra said he had concerns but appreciated the professional presentation. He is concerned it is not mandated legally for the project to go the Health Department to get approval prior to coming here. Because of that, there is the possibility of having to move one or more house sites after approvals have been given by the Planning Board. This project feels comfortable; his concern is not what is going on here as much as what might go on in the future. Mr. Borenstein said the house site can be anywhere within the building envelope. Mr. Lyons said in practicality, you should be required to go to the Health Department first, but according to zoning, you don't have to. Mr. Vavra also asked Mr. Borenstein how many homes were planned for both stages and Mr. Borenstein said a maximum of 15 homes total, including the proposed 4 now, but it will probably be a little less. Mr. Lyons said we want to preserve the topography of the property and not disturb the wetlands. With regard to the rural lane provisions, a rural lane is allowed to be a maximum length of 1500 feet which will also restrict the number of lots on the second parcel. Chairman Kingman said there were preliminary house sitings that were taken off because the board did not want to be misleading. Mr. Lyons said we will have at least vicinities for the home sitings prior to final approval. Mr. Lyons suggested the Planning Board come out and walk the site to get an idea of the SDS locations and home locations. Ruth Ketay said some towns have ordinances that you cannot build where you would disturb a ridgeline which may be something to consider. Chairman Kingman said there was a draft view shed that was pulled together in 2002; however, there was not enough support on the board. Ms. Clark said she felt the board should consider land being given for open space as opposed to recreation fees. Mr. Lyons said in his experience, many towns are selling off lots acquired in lieu of recreation fees because they are left with a lot of little parcels. There needs to be some thought given to how this will be used down the road. Spencer Shepard, Willow Glen Road asked if there will be a public hearing for phase 2, and Chairman Kingman said yes, each phase will be gone through completely. With no further public comment, Chairman Kingman closed the public hearing.

Chairman Kingman opened the regular meeting at 8:10 p.m. and introduced the new members and expressed thanks to the previous Chairman, Michael Toner, who served many years on the

Planning Board.

1. Approval of minutes of December 3, 2003. Ms. Child motioned to approve the minutes as amended, Ms. Hoffman seconded. All aye 4-0. Motion carried.
2. Correspondence -
 - a. Workshop for Stormwater Management
 - b. Update from Hudsonia
 - c. Solicitation from American Planning Association
 - d. Invitation to Planning Federation dinner
 - e. Dutchess County Planning newsletter
 - f. Planning News
 - g. Year End Planning Board report for 2003
 - h. Compilation of fees collected in 2003 for the Planning Board
 - i. Talk of the Towns magazine
3. Administrative Discussion Items
 - a. Planning Board members need to update address information.
 - b. Chairman Kingman discussed e-mail protocol with the board and distributed a handout from Robert Freeman, Executive Director of the NYS Committee on Open Government providing guidance as far as e-mails are concerned.
 - c. Education – The Dutchess County Planning Federation and the NYS Department of State holds classes at the Farm and Home Center in Millbrook. There is a certification program which is run by Pace University for board members and Dutchess County Planning has requested that all boards in Dutchess be certified. Chairman Kingman explained the training process and encouraged any member not who has not completed the certification process to participate.
4. The board continued with the David Borenstein application. Mr. Kingman distributed copies of Ted Fink's memo dated January 6, 2004 and said what is before us tonight is preliminary plat approval. Mr. Fink's opinion was, except for number 14 which still needs resolution, the rest of the items should be completed prior to final but preliminary approval at this point is reasonable. Chairman Kingman said there are two items relative to the recreation. The board needs to schedule a site visit open to anyone who would like to attend. Perhaps after that, we can have a discussion on what the options might be relative to recreation and the allocation of property. Mr. Lyons feels there will be more flexibility in terms of decision making on recreation land when the 86 acre parcel comes back for consideration. Public access issues need to be addressed. Chairman Kingman said he tends to agree with that based on the location of the four lots. It is the back lot where the potential exists for rec land. Mr. Lyons said the suggestion of trails is a great idea but there are practical implications and concerns regarding liability, nuisance, and privacy issues. Chairman Kingman said the code is written in such a way that the first consideration has to be for land and then for fees. A site visit should be first in line. Chairman Kingman said on the EAF form, the name of the action on page 1 is different than the name of the action on page 2; that needs to be corrected. A

negative declaration was given at the last meeting. The formal resolution will be done at a later date pending input from Mr. Fink. On page 2, item 2, both roads, etc. and other are plus/minus 7.5 acres; Mr. Morrison will double check that. Mr. Lyons said they do not anticipate clearing much in the way of vegetation. Ms. Hoffman questioned the answer to item 10 as far as hunting, etc. and Mr. Morrison said this is not a hunting preserve. There may be hunting done there now but it is not official.

Chairman Kingman motioned that the Planning Board grant preliminary approval on the Pasture Rock five-lot subdivision initial phase with the condition that all the items identified by Mr. Fink in his memo are completed prior to final plat approval. Ms. Child seconded. All aye 4-0. Motion carried.

5. George Carrothers appeared with a preliminary lay out of his restaurant proposal on property located on route 199, grid no. 6471-00-904454. Mr. Carrothers said the state wants one entrance off of Route 199 rather than the four that currently exist. Mr. Carrothers owns the adjacent property so, ultimately, access to the adjacent property will be proposed through this access. Mr. Carrothers showed the existing building and proposed addition as well as the parking, tree plantings, light posts, and signage. He has proposed to buffer the parking lot with blue spruce trees. The parking meets the setback from Moorehouse Road but does not meet the side setback so would require a variance from zoning. Ms. Child said moving the lot to conform was discussed previously. Mr. Carrothers said this plan was looked at by Mr. Fink who said this is the necessary parking to accommodate the square footage of this building. The other variance is the setback from the existing building to the road, but the proposed building is no closer than the existing building. This will be classified as a restaurant. Chairman Kingman reviewed the parking regulations for a restaurant in the zoning book, (page 20070). Ms. Child asked why the parking can't be moved to avoid a variance, and Mr. Carrothers showed where a town culvert is which can't be crossed. It has been worked out with the town highway superintendent as to the access way as well. Ms. Hoffman suggested mushroom lights to reduce the light diameter. Mr. Carrothers will put in stakes so the Planning Board can make a site visit.

Chairman Kingman made a motion that the preliminary plan presented by George Carrothers meets the current approval of the board and that the Planning Board recognizes that this will require a number of variances and the board is referring him to the ZBA for their action on the variances. There will be two variances for improvements, both lot setback variances due to the parking. Ms. Hoffman seconded. All aye. Motion carried. Mr. Carrothers will meet with the ZBA at their next meeting.

6. Don Worthy and Julio Vega appeared for a discussion with the board. They displayed a map and said they would like to extend Hamlet Lane, a rural lane. Chairman Kingman said the property map does not show this strip as being part of any parcel, and he believes that Dutchess County owns this land. At one point, there was a plan for Milan to take ownership

of these roadways with the thought that the town would be able to allocate the property. However, as far as we know, Dutchess County still owns that land. The next step for the applicant is to find out who does own this piece of property, and Chairman Kingman advised him to get in touch with the assessor's office. Mr. Vega asked some questions about zoning and what might be allowed.

7. Mark Graminski, Land Surveyor, and Jutta Middel, Applicant, appeared to show the board revisions to a final approved subdivision which was approved back in August of 2003. Mr. Graminski said this is a minor change involving lots 1 and 2, 10 and 5 acres. Someone wanted to purchase both lots as one parcel with no further subdivision allowed. Mr. Graminski said when this project was originally proposed, we submitted a plan showing an ultimate build out with a maximum of 8 lots. What we are proposing now is to combine lots 1 and 2. It is still four lots with a common driveway. This is just minor changes in the actual lot configurations. Phase 2 would have to come back to the Planning Board. It is noted on the original application that if the applicants were to come back, it would be for a total of 8 lots. Now, it would be for a total of 6 lots. Mr. Graminski said this was approved in August as a minor subdivision but was not signed by the chairman or filed in the county clerk's office. Approval is good for 180 days following the action which would take us into February. All parcels have approved access and frontage on Turkey Hill Road. They just received the permit from the DEC to install the bridge. Chairman Kingman referred to the zoning book and said this subdivision is actually identified as a major subdivision since the zoning book states a major subdivision is of four or more lots. As a major subdivision, since substantial lot line changes have been made, a public hearing will be necessary. Chairman Kingman said since this was not filed, this map can be considered the preliminary plat approval and we can look at the change for the final plat approval. Ms. Middel said Mr. Fink, Planner, looked at both versions during the last process, the 8 and the 4. The configuration is the same. Chairman Kingman feels the consultant should look at this to make sure it is in conformance with the code. This would be considered a re-subdivision. Ms. Middel said at the previous public hearing, the eight lot and four lot proposals were both displayed. Chairman Kingman suggested Mr. Graminski go through the zoning book to see if there are any approval changes from minor to major subdivision. Turkey Hill is a county road and there is approval in place from the county. They have approved the points of access onto Turkey Hill even though the common driveway will be used. Mr. Graminski said if this goes to further development, a rural lane requires 33 feet. This strip is 40 feet wide now. It is all set up so that 7 feet would be deeded to this lot so the roadway becomes 33 feet and conforms to specs. Since the public hearing is scheduled for the next meeting which is after the 180 day time limit for approval, Chairman Kingman motioned to extend the Middel major subdivision consideration for 90 days, Ms. Child seconded. All aye 4-0. Motion carried. Mr. Graminski will amend the plan to reflect a major subdivision.
8. Cary Feder and Randall Evans appeared for a discussion with the board. They did a subdivision in 2002 now want to change it. They had taken out 13 acres and now they want

to put it back on Academy Hill Road. They own both lots. They would like to keep the barns. There is an existing stone wall which they think may be the dividing line. They would leave the four acres on the other side of the road with the existing 23. They would like to take back some land while keeping the original farm together. There is the possibility in a few years of making another parcel. Chairman Kingman said a lot line adjustment is a form of a minor subdivision. The small parcel to be added to the farm would have to be at least five acres because the road makes a natural subdivision. Theoretically, you could go in and make that a separate lot. The board cannot create a substandard lot per the zoning code. The map will have to be sent to county since this is on a county road. There was no action taken at this meeting.

9. Discussion Items:

- The board agreed to move the February meeting from the fourth to the eleventh.
 - Chairman Kingman discussed zoning issues relative to accessory apartments and highway business uses. He explained to the board that any motions forwarded to the town board would be recommendations and would still have to go to Ted Fink for review.
- Chairman Kingman motioned for the board to approve a resolution to amend the zoning code regarding special use permits - accessory apartments (filed in minute book). Seconded by Ms. Child. Discussion followed and Chairman Kingman distributed information from the state attorney in support of this change (on file in the minute book). All aye 4-0. Motion carried.
- Chairman Kingman motioned for the board to approve a resolution for a plan to bring highway business uses into compliance (on file in minute book). Seconded by Mr. Jeffway. Discussion followed. An alternative suggested by Mr. Williams, ZBA Chair, was to contact business owners and give them a year to come into compliance. After that year, contact the ones that do not respond. All aye 4-0. Motion carried.
 - Chairman Kingman reminded everyone that the final public scoping session for the Hudson Valley Club proposal is scheduled for Saturday, February 10th at 11:30 a.m. at the Stissing High School, and all written comments need to be in by the 12th. The final scoping document is scheduled to be presented at the Pine Plains Planning Board meeting on the 14th.

Ms. Hoffman motioned to adjourn the meeting at 10:30 p.m., Ms. Child seconded. All aye 4-0. Motion carried.

The next meeting will be held on **Wednesday, February 11, 2004** at 7:15 p.m. at the

Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

Cc: Town Clerk (final copy)